

REMARKS

Applicants are amending claims 11 and 19 and canceling claim 20 without prejudice. As a result of this amendment, claims 1-19 are pending in this application. No new matter is added by this amendment, and applicants submit that no subject matter is relinquished by the foregoing amendment. Applicants respectfully request withdrawal of the Examiner's rejections of claims 1-19 for the reasons below and withdrawal of the Examiner's rejection of claim 20 as moot.

A. Claim Status

Claims 1-10 and 12-18 are unchanged.

Claim 11 is amended to correct a typographical error.

Claim 19 has been amended to correct an error in its dependency.

Claim 20 has been canceled without prejudice.

B. Claim Rejections

The Examiner rejected claims 1-20. Claim 20 stands rejected under 35 U.S.C. § 101; claims 1-7, 9-10, 12-18, and 20 stand rejected under 35 U.S.C. § 102(b); and claims 8, 11, and 19 stand rejected under 35 U.S.C. § 103(a).

1. Rejection under 35 U.S.C. § 101

The Examiner rejected claim 20 for allegedly being directed to non-statutory subject matter. Applicants have canceled this claim without prejudice and therefore request that the Examiner withdraw the rejection as moot.

2. Rejections under 35 U.S.C. § 102(b)

Claims 1-7, 9, 10, 12-18, and 20 have been rejected under 35 U.S.C. §102(b) as allegedly being anticipated by “Guide to Success” at www.medical-radar.se (“Medical Radar website”). “For a prior art reference to anticipate in terms of 35 U.S.C. § 102, every element of the claimed invention must be identically shown in a single reference.” *Diversitech Corp. v. Century Steps, Inc.*, 850 F.2d 675, 677, 7 U.S.P.Q.2d 1315, 1317 (Fed. Cir. 1988); *see also Verve, LLC v. Crane Cams, Inc.*, 311 F.3d 1116, 1121, 65 U.S.P.Q.2d 1051 (Fed. Cir. 2002) (“A single reference must describe the claimed invention with sufficient precision and detail to establish that the subject matter existed in the prior art.”).

Applicants assert that the cited reference does not disclose or suggest all elements of Claims 1-7, 9 and 10. Specifically, the Medical Radar website reference does not disclose the step of “storing, in a *database*, collected data *related to at least one key success factor associated with at least the market performance* which is related to said first product” as recited by Claim 1 (emphasis added). The Medical Radar website does not even disclose using a database. Claim 9 recites a similar limitation to Claim 1, specifically “a database for storing collected data related to at least one key success factor associated with at least the market performance which is related to said first product.” For at least the foregoing reason, Claims 1 and 9 are clearly patentable over the Medical Radar website and should be allowed.

The Medical Radar website reference also does not disclose or suggest “forecasting, in a *central computer unit*, the future sales of said first product based on said collected data related to said at least one key success factor; and *transmitting said information to at least one external user*,” recited by Claim 1 (emphasis added). The Medical Radar website does not disclose using a central computer unit or transmitting information to at least one external user. Claim 9 includes a limitation similar to that of Claim 1, specifically “a *central*

computer unit adapted for forecasting the future sales of said first product based on said collected data related to said at least one key success factor, and *for transmitting said information to at least one external user*” (emphasis added). For at least the foregoing reasons, Claims 1 and 9 are patentable over the Medical Radar website and should be allowed.

Because Claims 2-7 depend from Claim 1 and Claims 10 and 11 depend from Claim 9, Claims 2-7, 10, and 11 contain at least the limitations of Claims 1 and 9 and are therefore patentable for at least the reasons set out above.

Applicants assert that the cited reference does not disclose or suggest all elements of Claims 12-18. The Medical Radar website reference does not disclose the steps of “collecting and *storing data related to at least one key success factor* associated with at least the market performance which is related to said first product” and “making said information available *to at least one external user*” of Claim 12 (emphasis added). The Medical Radar website makes no mention of storing data nor does it mention making the data available to at least one external user. For at least the foregoing reasons, Claim 12 is patentable over the Medical Radar website and should be allowed. Because Claims 13-18 depend from Claim 12, they contain at least the limitations of Claim 12 and are therefore patentable for at least the reasons set out above.

Claim 20 is canceled without prejudice, so Applicants submit that the Examiner’s rejection of that claim is now moot. For the foregoing reasons, Applicants respectfully request that the Examiner withdraw all rejections under 35 U.S.C. § 102(b).

3. Rejections under 35 U.S.C. § 103(a)

Claims 8, 11, and 19 have been rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over the Medical Radar website reference and U.S. Patent No. 6,708,156 to

Von Gonten. “When a rejection depends on a combination of prior art references, there must be some teaching, suggestion, or motivation to combine the references.” *In re Rouffet*, 149 F.3d 1350, 1355, 47 U.S.P.Q.2d 1453 (Fed. Cir. 1998) (citing *In re Geiger*, 815 F.2d 686, 688, 2 U.S.P.Q.2d 1276, 1278 (Fed. Cir. 1987)). “The showing of a motivation to combine must be clear and particular, and it must be supported by actual evidence.” *Teleflex Inc. v. Ficosa N. Am. Corp.*, 299 F.3d 1313, 63 U.S.P.Q.2d 1374, 1387 (Fed. Cir. 2002) (citing *In re Dembiczak*, 175 F.3d 994, 999, 50 U.S.P.Q.2d 1614, 1617 (Fed. Cir. 1999)).


The Examiner observes that the invention is within a field that may overlap the field of the Van Gonten patent, but fails to point to any suggestion in the references themselves to make the alleged combination, and does not provide any reason that a person of ordinary skill would have been motivated to combine the references. Thus, Applicants respectfully assert that a *prima facie* case for obviousness has not been established and request that the Examiner withdraw the rejections under 35 U.S.C. § 103(a).

CONCLUSION

Applicants respectfully request that the Examiner grant a one-month extension of time for the filing of this response, enter this amendment, and reconsider the above-captioned patent application in view of the foregoing amendments and remarks. Please find the appropriate fee enclosed. In the event of any variance between the fees determined by Applicants and those determined by the PTO, please charge any such variance to the undersigned's Deposit Account No. 02-4377. Applicants respectfully submit that this application, as amended, is in condition for allowance, and such disposition is earnestly solicited.

Respectfully submitted,

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